

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:21-cv-00251-MR-WCM**

SHONDRIA WEBBER,)
)
 Plaintiff,)
)
 vs.)
)
 AEROFLOW, INC.,)
)
 Defendant.)
 _____)

ORDER

THIS MATTER is before the Court on the Defendant's Motion to Dismiss [Doc. 8]; the Magistrate Judge's Memorandum and Recommendation [Doc. 14] regarding the disposition of that motion; and the Defendant's Limited Objection to Memorandum and Recommendation [Doc. 15].

Pursuant to 28 U.S.C. § 636(b) and the Standing Orders of Designation of this Court, the Honorable W. Carleton Metcalf, United States Magistrate Judge, was designated to consider the Defendant's motion and to submit a recommendation for its disposition. On July 5, 2022, the Magistrate Judge issued a Memorandum and Recommendation, recommending that the Defendant's Motion to Dismiss be granted in part and denied in part. [Doc. 14]. The parties were advised that any objections to the Magistrate Judge's

Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. [Id.]. The Defendant timely filed its Limited Objection on July 19, 2022. [Doc. 15]. The Plaintiff filed her Reply to the Defendant's Objection on August 2, 2022. [Doc. 16]. This matter is now ripe for disposition.

After a careful review of the Memorandum and Recommendation, the Court concludes that the Magistrate Judge's proposed conclusions of law are correct and consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's recommendation that the Defendant's Motion to Dismiss should be granted in part and denied in part.

Accordingly, **IT IS, THEREFORE, ORDERED** that the Defendant's Limited Objection [Doc. 15] is **OVERRULED**, and the recommendation of the Magistrate Judge [Doc. 14] is **ACCEPTED**.

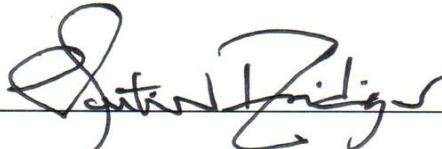
IT IS FURTHER ORDERED that the Defendant's Motion to Dismiss [Doc. 8] is **GRANTED IN PART** and **DENIED IN PART** as follows:

(1) To the extent that the Plaintiff's Title VII claim is based on a theory of constructive discharge, such claim is **DISMISSED** as the Plaintiff has failed to exhaust her administrative remedies; and

(2) The Plaintiff's racial discrimination claim under Title VII shall otherwise be allowed to proceed.

IT IS SO ORDERED.

Signed: August 6, 2022



Martin Reidinger
Chief United States District Judge

